



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 25, 1998

Mr. Kevin D. Pagan
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR98-0798

Dear Mr. Pagan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 11869.

The McAllen Police Department (the "department") received a request for report number 97-34874. You claim that the requested report is excepted from disclosure by section 552.108 of the Government Code. We have previously ruled on the disclosure of this information. Open Records Letter Ruling No. 98-0468 (1998). In that ruling we stated that

You contend that both subsections 552.108(a)(1) and 552.108(a)(2) apply to the requested records because "the case investigation is ongoing" and because the records at issue "deal with criminal activity that did not result in conviction or deferred adjudication." Other information you have submitted to this office, however, belies your representations to this office. Specifically, page two of the open records request form states that the arrestee pleaded "nolo" to the offense and paid a fine as a result of the arrest. We therefore conclude that you have not met your burden of demonstrating the applicability of section 552.108 to the offense report. Consequently, the department must release the requested record in its entirety.

You make the same arguments in this case as you did in your previous request for a decision. In addition, page two of the open records request form again states that the arrestee pleaded "nolo" to the offense and paid a fine as a result of the arrest. In accordance with Open Records Letter Ruling 98-0468, you must release the requested report. Gov't Code § 552.007(a); Open Record Decision Nos. 490 (1988) (governmental body may not practice selective disclosure); 464 (1987), 463 (1987), 192 (1978); *see* Gov't Code § 552.353(b)(3).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 113869

Enclosures: Submitted documents
Open Records Letter Ruling No. 98-0468 (1998)

cc: Mr. Daniel Bernard Morin
1407 W. Redbud Avenue
McAllen, Texas 78504
(w/o enclosures)